

# BOARD OF ADJUSTMENT REPORT



MEETING DATE: 12/8/2004

ITEM NO. 4

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT	Shade Cover 15-BA-2004
REQUEST	Request to approve a variance from article V. Section 5.204 E.2 regarding side yard setback requirements, on a parcel located at 13318 N 76th Street with Single Family Residential (R1-35) zoning.
OWNER	Gregg Townsley 480-367-6636
APPLICANT CONTACT	Gregg Townsley 480-367-6636
LOCATION	13318 N 76th St
CODE ENFORCEMENT ACTIVITY	Code enforcement has received two (2) complaints from area residents. The Code enforcement officer has contacted the applicant regarding the side yard setback encroachment. In response, the appellant has submitted a variance request to the Board of Adjustment.
PUBLIC COMMENT	The appellant has notified residences within 300 feet of the subject property regarding the request for the variance. A total of 14 neighbors were contacted. Twelve of these residents have signed a petition in support of the requested variance. Staff has not received any phone calls opposed to this request other than the original complaints received by Code Enforcement.
ZONE	R1-35 (Single Family Residential) District.
DEVELOPMENT CONTEXT	The property is located in the Sweetwater East Unit Two residential neighborhood and is surrounded by similarly zoned R1-35 single-family developed lots.
ORDINANCE REQUIREMENTS	Section 5.204 E.2 of the Zoning Ordinance requires a 15-foot side-yard setback from property line for structures not situated in the rear yard of a property.

## DISCUSSION

The applicant is requesting a variance to the standard side-yard setback requirement to allow a shade structure designed to cover a vehicle used as a mobile veterinary clinic. The existing shade cover was installed without the benefit of a City review or approval. The appellant states the shade structure is necessary to keep the interior of the veterinary vehicle at the correct temperature for maintaining diagnostic equipment and medications kept within the vehicle. The appellant further indicates that no reasonable on-site alternative exists for parking of the vehicle, and stating that the location of the shade structure is screened by mature landscaping and is adequately setback from 76<sup>th</sup> Street.

## FINDINGS

- 1. That there are special circumstances applying to the property referred to in the application, which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The appellant has indicated that since the shade canopy is a freestanding, non-permanent structure and screened by landscaping from view from the street and adjacent properties, the integrity of the property is not compromised. Staff does not find that special circumstances exist relative to the size, shape, topography or location of this property. The subject property and immediate surroundings are zoned R1-35 and are subject to the same zone district standards for development.

- 2. That special circumstances were not created by the owner or applicant:**

The uniform side-yard setback within this R1-35 zoned subdivision is 15 feet from property line. Special circumstances may have been created when the party responsible for the installation of the canopy did not verify the setback requirements for the zone district. The requirements for anchoring the uprights supporting the canopy moves the use into a structure definition, subject to the zone district standards for setbacks, height, etc.

- 3. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

The applicant states that without this shade canopy, the mobile veterinary vehicle would need to be located elsewhere, possibly off-site. Through the attached petition of support, the appellant indicates that the neighbor's rights and privileges would not be compromised by this temporary structure, and that the overall integrity of the neighborhood would be preserved.

Staff feels that other suitable alternatives are available to solve the problems associated with this request including placement of the

canopy in the rear yard. Potential impacts on the rights and enjoyment by other property owners on adjacent site are impacted. Staff is concerned that authorizing this variance may set an undesirable precedent for future proposals of this type, leading to an requests for further reductions of setbacks between residences and increased of accessory structures.

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:

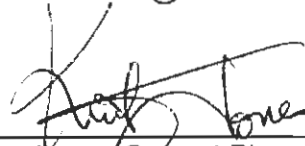
In addition to the support of this request displayed by the neighbors, the appellant states that the canopy is substantially screened from the street or adjacent properties. Viewed in isolation, this particular shade canopy may not appear to be detrimental to persons residing or working in the immediate vicinity. The petition in support of the requests suggests adjoining property owners do not view the accessory structure as a detriment to the neighborhood. However, the fact that this case originated as a Code enforcement issue suggests not all area residents are supportive of this request. Staff is again unable to conclude that the justification for the request goes far enough in demonstrating the request will not have negative short and long-term effects on the neighborhood or the general public welfare.

#### STAFF CONTACT



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#### ATTACHMENTS

1. Project Description
2. Justification
3. Context Aerial
4. Aerial Close-up
5. Zoning Map
6. Photographs
7. Site Plan



# ZONING ORDINANCE VARIANCE

## Application Submittal Requirements

### Project Description / Variance Details

Case Numbers: 691 - PA - 02 / 15 - BA - 04

Project Name: SHADE COVER

Location: 13318 N. 76<sup>th</sup> STREET

#### Property Details:

☒ Single-Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Use: HOME Zoning: R1-35

Number of Buildings: \_\_\_\_\_ Height: \_\_\_\_\_

Setbacks: N - \_\_\_\_\_ S - 6' E - \_\_\_\_\_ W - \_\_\_\_\_

#### Description of Request:

Section of the Zoning Ordinance to be varied: 5.204 E. 2

Project Narrative: REQUEST VARIANCE FOR SHADE STRUCTURE  
TO SHADE <sup>A MOBILE</sup> VETERINARY CLINIC ADJACENT TO  
SINGLE FAMILY HOME. THE SHADE STRUCTURE IS  
NECESSARY TO KEEP THE MOBILE VET CLINIC AT  
THE CORRECT TEMPERATURE FOR MEDICATIONS AND  
DIAGNOSTIC MACHINERY. NO REASONABLE ALTERNATE  
LOCATIONS EXIST ON-SITE TO PARK THE MOBILE  
VET. CLINIC.

Scottsdale Ordinance Requires: 15 FT.

Request: 6 FT.

Amount of Variance: 9 FT.

### Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088



691-PA-04

# ZONING ORDINANCE VARIANCE

## Application Submittal Requirements

### Justification for Variance ✓

The Board of Adjustment may not authorize a zoning ordinance variance unless ALL of the following criteria are met. Use the space provided to present your evidence that the requested variance complies; you may attach a separate sheet if you need more room.

1. Special circumstances/conditions exist which do not apply to other properties in the district:

THIS IS NOT A BUILDING WITH WALLS BUT 6 POLES  
WHICH SUPPORT A CANOPY THAT SHADES OUR PARKING AREA

2. Special circumstances were not created by the owner or applicant:

OUR 6' SET BACK FROM SIDE PROPERTY LINE & 8' FROM  
GARAGE WERE REPRESENTED TO BE IN ACCORDANCE WITH  
ALL CODES & PERMITS BY SUN SPORTS

3. Authorizing the variance is necessary for the preservation and enjoyment of substantial property rights:

WITHOUT THIS SHADE COVER WE WOULD HAVE TO RELOCATE.  
OUR MOBILE VETERINARY CLINIC VEHICLE CANNOT BE KEPT  
AT THE CORRECT TEMPERATURE FOR MEDICINES & DIAGNOSTIC  
EQUIPMENT WITHOUT IT

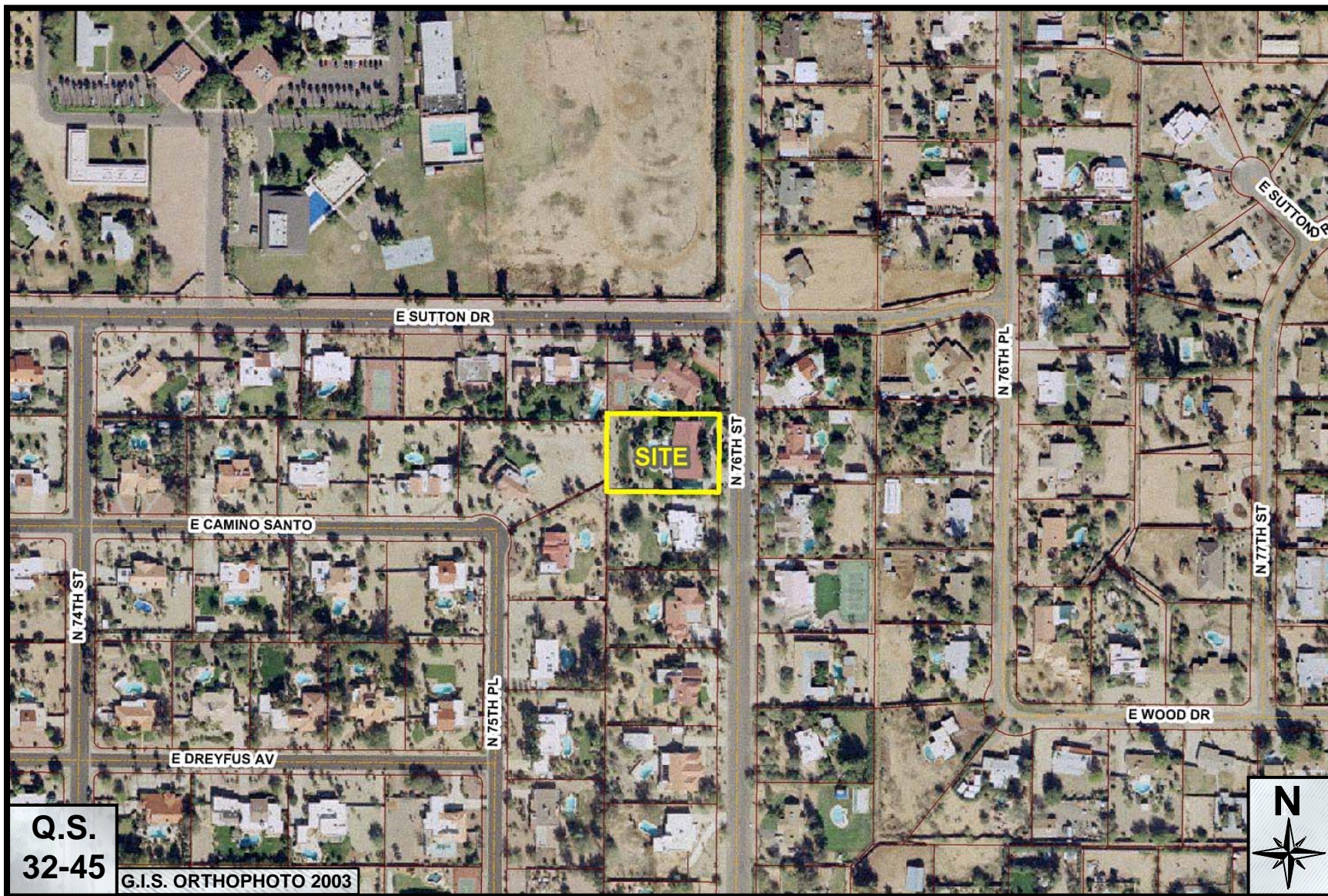
4. Authorizing the application will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare in general:

THE STRUCTURE IS MOSTLY HIDDEN FROM VIEW  
EXCEPT FOR OUR NEIGHBOR AT 13225 N. 76<sup>TH</sup> ST  
(THE BARRY'S - RAY & NICHELE) OUR NEIGHBORS HAVE ALL  
BEEN VERY SUPPORTIVE OF US KEEPING THE SHADE COVER.  
ONLY ONE FAMILY HAS NOT REPLIED SO FAR

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Shade Cover

15-BA-2004

ATTACHMENT #2





Shade Cover

**15-BA-2004**

ATTACHMENT #2A



# 15-BA-2004

ATTACHMENT #3





DIRECTLY IN FRONT OF HOUSE  
 & LOOKING SLIGHTLY LEFT FROM STREET



VIEW FROM STREET IN FRONT OF OUR HOUSE



ATTACHMENT #6

LEFT END OF HOUSE



DRIVEWAY AT LEFT END OF HOUSE





#5 THIS IS THE  
MOST DIRECT  
VIEW OF SHAD  
COVER FROM  
PLOT #60  
13225 N. 76<sup>th</sup>  
RAY & NICHELE  
BARRY



PHOTO #8  
TURN OVER  
(SEE BACK)  
PHOTO #6  
VIEW FROM  
IN FRONT OF  
13266 N. 76<sup>th</sup>  
ST. OUR  
NEIGHBOR  
TO OUR SOUT  
SIDE. OWNER  
RICHARD BEDNAR  
DAN HONIG IS  
LONG TERM  
RENTER



PHOTO #7  
VIEW FROM  
13213 N. 76<sup>th</sup>  
FILTERED  
VIEW FROM  
STREET IN  
FRONT OF  
DRIVEWAY

Photo #8

APPROACHING OUR  
PROPERTY FROM THE SOUTH  
ON 76<sup>th</sup> ST.



SHADE  
COVER  
IS HIDDEN  
BEHIND  
TREES  
#  
CLEAN BETS

VIEW FROM  
13266 N. 76<sup>th</sup> ST

CLOSEST NEIGHBOR

RICHARD BEDNANSKI (OWNER)

DAN HONICK (RESIDENT)





PHOTOS TAKEN FROM DRIVEWAY/GARAGE  
 OF 13266 N. 76<sup>th</sup> ST. OUR NEIGHBOR  
 TO SOUTH (RICHARD BEDNARSKI - OWNER) THIS IS  
 THE CLOSEST ANYONE IS TO THE SHADE COVER.  
 IT IS ALMOST COMPLETELY HIDDEN  
 BY OLEANDERS & BOTTLE TREES.



FOR  
 PHOTO #11  
 (TURN  
 OVER)



FROM DRIVEWAY AT 13266 N. 76<sup>th</sup> ST.

THIS NEIGHBOR DAN HONIG (RESIDENT) AND  
PROPERTY OWNER RICHARD BEDNARSKI ARE SO  
SUPPORTIVE THAT RICHARD OFFERED TO DISCUSS  
A PROPERTY LINE CHANGE IF THE VARIANCE  
WAS DENIED! WE HAVE HAD GREAT RESPONSES  
FROM OUR NEIGHBORS.

PHOTO #11



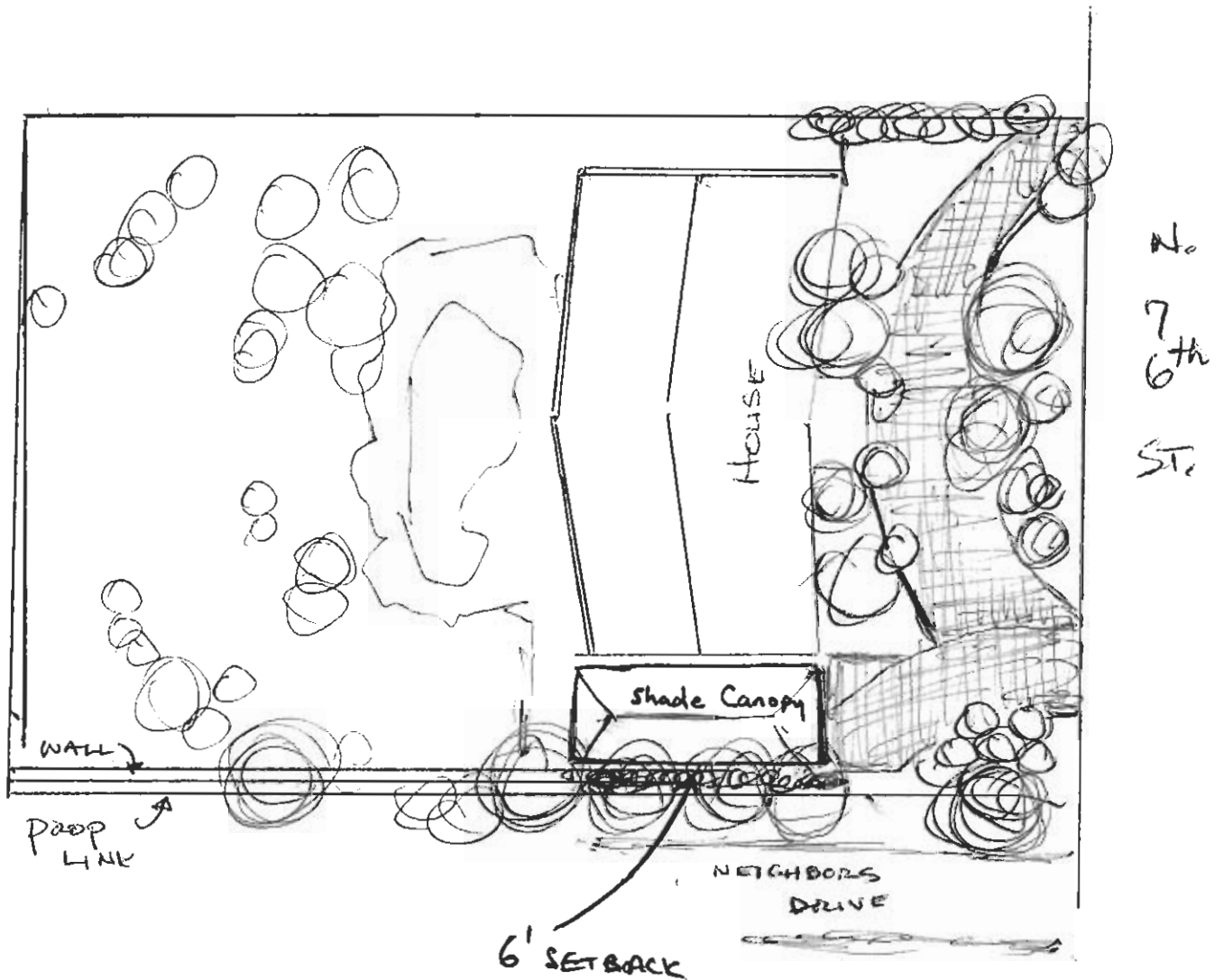
SECTION

7200 A.4

2' + 1 FT PER ADD. FT OF HEIGHT

6 FT FROM SIDE LINE

SIDE YARD



⊗ SHADE COVER  
LOCATION

18x24